

Decision 03-01-033 January 16, 2003

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

The Utility Consumer's Action Network (UCAN),

Complainant,

vs.

Pacific Bell Telephone Company, AOL-Time
Warner, Inc., Does 1-100,

Defendant.

Case 02-07-044
(Filed July 24, 2002)

ORDER EXTENDING STATUTORY DEADLINE

Pub. Util. Code § 1701.2(d) provides that adjudicatory cases shall be resolved within 12 months of initiation unless the Commission makes findings why that deadline cannot be met and issues an order extending the deadline.

Case (C.) 02-07-044 was filed on July 24, 2002. In a telephone status conference on December 17, 2002, all parties agreed that they are working with Commission staff and that settlement discussions are progressing satisfactorily. They stated that the case may be resolved without the need for evidentiary hearings. Accordingly, the Utility Consumers' Action Network (UCAN) asked that the statutory deadline be extended from June 23, 2003, to December 31, 2003, and that a subsequent telephone status conference be conducted on June 17, 2003. No party opposes the requests. While we grant this extension well in advance of the statutory deadline, we do so because the parties represent that they are developing a test of Internet calling procedures that are the subject of this

complaint. The test will extend beyond June 2003 and will be followed by evaluation of test results and further settlement discussions.

For good cause shown, we deem it prudent and consistent with the letter and the spirit of the statute to extend the statutory deadline for final resolution of the case to ensure that no violation of Pub. Util. Code § 1701.2(d) occurs.

A final decision in this case should issue before the end of 2003. Therefore, we will extend the statutory deadline to December 31, 2003. If a final decision has not been issued by that time, a further order extending statutory deadline will issue. We also direct UCAN to arrange a second telephone status conference with the Administrative Law Judge (ALJ) and all parties on Tuesday, June 17, 2003, at 1:30 p.m.

Under Rule 77.7(f)(4) of the Rules of Practice and Procedure, the Commission may reduce or waive the period for public review and comment of draft decisions extending the deadline for resolving adjudicatory proceedings. Accordingly, pursuant to Rule 77.7(f)(4), the otherwise applicable § 1701.2(d) statutory deadline for public review and comment is being waived.

Assignment of Proceeding

Geoffrey F. Brown is the Assigned Commissioner and Glen Walker is the assigned Administrative Law Judge for this proceeding.

Findings of Fact

1. This proceeding was initiated on July 24, 2002, as an adjudicatory proceeding.
2. In a telephone status conference on December 17, 2002, UCAN asked that the statutory deadline be extended to December 31, 2003, so that the parties may conduct further discovery and consider settlement.

3. UCAN also requested that a second telephone status conference be conducted on June 17, 2003.

4. Based upon the 12-month statutory deadline, this proceeding was to have been resolved on or before July 23, 2003, unless that date is extended.

5. The 12-month deadline will not be met, primarily because of the parties' request for more time to pursue settlement. As set forth in the foregoing Opinion, the parties' plan for pursuing settlement seems well calculated to fairly resolve the issues in this proceeding but will involve testing and evaluation of test results beyond the 12-month deadline.

6. A final decision in this proceeding is to be issued on or before December 31, 2003.

Conclusions of Law

The 12-month deadline imposed by Pub. Util. Code § 1701.2(d) should be extended to December 31, 2003.

IT IS ORDERED that:

1. The 12-month statutory deadline in this proceeding is extended to December 31, 2003.

2. The Utility Consumers' Action Network is directed to arrange a telephone status conference at 1:30 p.m., Tuesday, June 17, 2003, between the assigned Administrative Law Judge and all parties.

This order is effective today.

Dated January 16, 2003, at San Francisco, California.

MICHAEL R. PEEVEY
President
CARL W. WOOD
LORETTA M. LYNCH

GEOFFREY F. BROWN
SUSAN P. KENNEDY
Commissioners